

MODINE MANUFACTURING COMPANY,
Plaintiff(s),

-against-

EXPEDITORS INTERNATIONAL GmbH and
DELTA AIR LINES, INC.,

07 Civ. 7457 (HB)

**PROPOSED PRETRIAL
SCHEDULING ORDER**

Defendant(s).

APPEARANCES:

Plaintiff(s) by: HILL RIVKINS & HAYDEN LLP THOMAS E. WILLOUGHBY, ESQ.

Deft, Expeditors International by: BADIAK & WILL LLP JAMES P. KRAUZLIS, ESQ.

Deft, Delta Air Lines, Inc. by: MOUND COTTON WOLLAN FRANCIS A. MONTBACH, ESQ.

HAROLD BAER, Jr., District Judge: & GREENGRASS

Do the parties consent to proceed before a United States Magistrate for all purposes,
pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73?

Yes ___ No X

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, after holding an
initial pretrial conference on notice to all parties, it is hereby ordered that:

Except under circumstances agreed to by the Court:

1. This case is added to the June **Trailing Trial Calendar**.
Jury ___ Non-Jury X. Estimated number of trial days is two. Counsel should not make any
other commitments during this month. As a general rule, all cases will be tried within a
reasonable time from the date of this pretrial conference based on the complexity of the case.

2. No additional parties may be joined after December 3, 2007.

New parties shall be bound by the deadlines included in this Pretrial Scheduling Order. If
new parties are joined, the party joining them shall forward to them a copy of this Pretrial
Scheduling Order and provide them with access to all previously taken discovery. Should this
pose a seemingly insurmountable problem, call Chambers.

3. No additional causes of action or defenses may be asserted after December 3, 2007.

4. **Discovery:** All discovery, except for expert discovery, shall be commenced in
time to be completed by March 28, 2008. Disclosure of expert testimony, if any, will be
made at least 45 days before the agreed to trial month. Evidence intended to contradict or rebut
the subject matter of the expert testimony will be submitted within 21 calendar days after the

If applicable, decisions with respect to disclosure and discovery of electronically stored information, along with privilege issues related to that information, shall be provided to the Court within 10 days of this Order.

5. **Motions:** No party may make a dispositive motion returnable after April 30, 2008. Either party may request (and will be given a date by Chambers) for oral argument. The above date is the date by which any motion shall be fully briefed (i.e., moving, opposition and reply papers) and a courtesy copy delivered to Chambers.

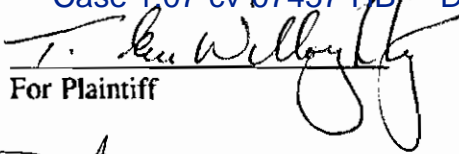
In deciding the last date to submit fully briefed motions and your agreed to trial month, keep in mind that the Court requires at least 60 days to decide dispositive motions.

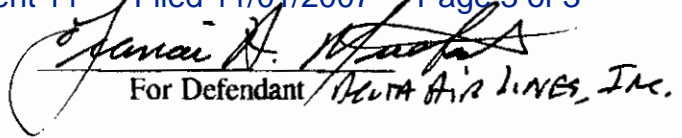
6. **Joint Pretrial Order:** A joint pretrial order shall, unless waived by the Court, be submitted by May 10, 2008. The pretrial order shall conform to the Court's Individual Practice and Rules. Counsel may inquire of Chambers with respect to the filing date(s) for requests to charge, proposed voir dire, and motions in limine, but in no event are they to be submitted less than five (5) business days (fully briefed) before the date set for trial.


7. The law clerk assigned to this case is J. Smith, to whom all correspondence should be directed.

8. Upon request to Chambers by either side, the Court will schedule and conduct a settlement conference and/or mediation. The Court will also, upon request, facilitate mediation under the Court Mediation Program or a settlement conference before your Magistrate Judge. In the case of a mediation to be conducted by the Court, all parties must bring their respective clients to the mediation. Keep in mind, closure, for the most part, is accomplished in direct proportion to how early in the litigation the mediation occurs. Any ADR procedure must occur within the framework of this order.

9. Whenever a case is resolved, the parties must submit an Order of Discontinuance, signed by all parties before the case will be removed from the trial calendar. When the parties settle within forty-eight hours of trial or the filing of a dispositive motion, they must notify the Court immediately of such settlement, and fax to the Court no less than thirty-six hours prior to their planned appearance, an Order of Discontinuance (copy attached), signed by all parties.


For Plaintiff


For Defendant Delta Air Lines, Inc.

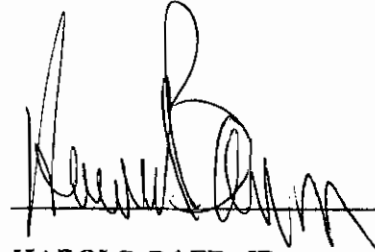

For Defendant Expeditors / n/y 4mbH

For Plaintiff

SO ORDERED.

DATED: New York, New York

11/1/07


HAROLD BAER, JR.
United States District Judge